IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8850 of 1991
With
SPECIAL CIVIL APPLICATION No. 424 of 1992

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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M SOURABHAN - Petitioner(s)

Versus

INSTITUTE FOR PLASMA RESEARCH - Respondent(s)

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Appearance :
MR MUKUL SINHA for Petitioner No(s).: 1.
MR MANISH R BHATT for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI
Date : 26/08/2005

ORAL JUDGMENT

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1. These petitions are directed against the order dated 11th December, 1991 passed by the respondent, whereby the respondent has treated the unauthorized absence of the petitioners as Dies-non.

2. The short facts of the case are that the petitioner – Sourabhan was working as a Stenographer and petitioner – Chauhan was working as Attendant-A with the respondent. It is the case of the petitioner that in view of the dispute between the IFR Employees Union and the respondent Management, a Dharna was held against the respondent institute. It is further the case of the petitioner that after duly applying for casual leave they participated in the Dharna on 23rd September, 1991. In view of this, the respondent issued Memorandum to the petitioners and thereafter a show cause notice was issued reiterating the earlier allegations. However, the respondent without giving him further opportunity, passed the impugned order as stated above. Hence, this petition.

3. While admitting the matter on 23rd January, 1992 this Court had passed the following order :-

> “RULE. To be heard with Special Civil Application No. 424 of 1992. Interim relief in terms of para 8 (iii) on condition that the petitioner shall file an undertaking in this Court to the effect that in case he loses in the petition, he shall repay the amount to respondent no. 1 within a period of one month from the date of decision of

this petition. The undertaking as such shall be filed on or before January 31, 1992."

4. As a result of hearing and discussion and on perusal of the documents on record, I am of the opinion that ends of justice would be met by directing the petitioners to repay the amount equivalent to one day salary for the relevant year and further direct the respondent to treat the petitioners in continuous service.

4.1. Accordingly, the petitioners are directed to repay the amount equivalent to one day salary for the relevant year and the respondent shall treat the service of the petitioners as continuous service. The issue about maintainability of the petition is not gone into in view of this clarification.

5. Subject to the above directions, the petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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